THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.7342 of 2006

Dt.17.4.2006

Between:

Swamy Guravaiah and others … Petitioners

And

Government of A.P., rep by its Principal

Secretary, Municipal Administration,

Secretariat, Hyderabad and others

…Respondents

ORDER:

Petitioners question the action of the respondents in threatening to demolish the property i.e., shops and buildings belonging to the petitioners 1 to 6 bearing Door No.7-127, 3-452/1, 7-113/1, 7-116 and 7-125/5 respectively situated in the main road at Jaggayyapeta Town, Krishna District, without taking into consideration of the resolution passed by the 5th respondent along with Chair Person and Council of the Jaggayyapeta Municipality and without giving notice and without following the procedure prescribed under law as illegal and arbitrary.

Petitioners are the absolute owners and possessors of the property in question bearing Door Nos.7-127, 3-452/1, 7-113/1, 7-116 and 7-125/5 respectively situated at the Main Road, Jaggayyapeta Town, Krishna District. While so, the 5th respondent Municipality has taken a decision to widen the Muktala and Bulusupadu Roads in Jaggayyapeta. It is stated that the employees of the 5th respondent Municipality came to the property of the petitioners on 21.3.2006 and marked 10 feet for demolition even without issuing any notice or following the procedure contemplated by law.

Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents.

The learned counsel for the petitioners submits that for the purpose of widening of the road the respondents earmarked the structures belonging to the petitioners and the respondents are proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act') without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioners have not encroached any road and they have constructed the buildings or structures as per the approved plan only.

No doubt widening/laying of the road is in public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of a number of writ petitions directing the respondents not to demolish the property of the private citizens without following the due process of law or private negotiations.

Having regard to the facts and circumstances of the case, the respondents are directed not to demolish or take away any portion of the property of the petitioners and not to dispossess them without following the due process of law under Sections 172 or 174 of the Act.

The writ petition is disposed of accordingly. No costs.

V.ESWARAIAH, J.

April 17, 2006

Note: Issue copy within two days

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